

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 16, 1988

ALL-COUNTY INFORMATION NOTICE I-123-88

TO: ALL COUNTY WELFARE DEPARTMENTS  
ALL PUBLIC AND PRIVATE ADOPTION AGENCIES  
ALL SDSS ADOPTION DISTRICT OFFICES

SUBJECT: 1988 CHAPTERED LEGISLATION RELATED TO THE ADOPTION PROGRAM

The following information summarizes some issues related to the adoptions program which were addressed in bills enacted into law during 1988 and which become effective January 1, 1989, unless otherwise noted.

This summary is for general informational purposes only. It is in addition to the more detailed description of specific programmatic issues and implementation steps that have been or will be addressed in other individual All-County Letters (ACLs) or All-County Information Notices (ACINs) regarding recently enacted adoptions legislation.

**AB 703 (Allen), Chapter 805, Statutes of 1988**

This legislation amends Section 45 of the Code of Civil Procedures to provide that, in order to make placements permanent and stable and to minimize the anxiety to all parties, extensions of time in appeals taken in actions to free dependent children of the juvenile court from parental custody shall be granted only upon an exceptional showing of good cause. Such appeals will continue to have precedence over all other cases. Additionally, this legislation requires the Judicial Council to implement a four-year project in Orange County to assure that any such appeal filed on or after January 1, 1989 be finally determined within 250 days of the filing of the notice of appeal. A report to the Legislature on the effectiveness of this project must be filed by the Judicial Council no later than April 1, 1993.

This legislation does not require new Departmental regulations.

**AB 2140 (Mojonnier), Chapter 412, Statutes of 1988**

This legislation amends Sections 224b(e) and (f) of the Civil Code concerning children who are deferred from inclusion in the statewide adoption photo-listing service. Existing law allows a child to be deferred from the photolisting service when

the child's foster parents or other identified individuals have applied to adopt and their application has not been processed by the adoption agency. Children who are not listed for this reason are required to be listed within 60 working days of the date the child was legally freed unless a notice of adoptive placement has been filed. This legislation repeals that 60-day requirement. Additionally, the criteria for the deferral of a child from the photolisting services has been amended. Children whose foster parents or other identified individuals who have applied to adopt and are meeting both the agency's requests for required documentation and cooperating in the completion of the agency's homestudy are deferred from the photo-listing service.

The Departmental regulations will be amended as a result of this legislation.

#### **AB 2545 (Harris), Chapter 1832, Statutes of 1988**

This legislation amends Civil Code Section 226 to require that: 1) if a minor is the subject of both an adoption petition and a guardianship petition, the adoption petition must include specific information concerning the guardianship action; 2) the guardianship and adoption proceeding must be consolidated and heard; and 3) the petitioners filing a guardianship petition are required to advise the Probate Court of any pending adoption petition or intent to adopt.

Section 226a of the Civil Code is amended to clarify the meaning of "best interests" of a child by providing specific factors to be considered by the court when making a finding on the natural parents' withdrawal of consent to the adoption of a child.

Section 2250 of the Probate Code is revised to mandate that a notice of temporary guardianship appointment be delivered to the natural parent of a minor no less than 5 days prior to the guardianship appointment. In addition, should a vacancy occur in the guardian's or conservator's office, the court, on a filed petition or its own motion may appoint a temporary guardian or conservator.

This legislation does not require new Departmental regulations.

#### **AB 2548 (Harris), Chapter 1001, Statutes of 1988**

This legislation amends Section 225m of the Civil Code to require that, before obtaining written consent to represent both the birth and adoptive parents in an independent adoption action, an attorney must advise the birthparents of their right to independent counsel, their right to waive independent counsel and the possibility that the prospective adoptive parents might be required to pay up to \$500 dollars (the parties may agree to a higher amount) for reasonable legal fees for the birthparents'

legal representation. Additionally, any written consent to such dual representation must be filed with the court prior to the birthparents' consent to adoption. Finally, the court, on its own motion, may appoint an attorney to represent the birthparents.

This legislation does not require new Departmental regulations.

**AB 2967 (Frizzell), Chapter 557, Statutes of 1988**

This legislation amends Section 221.5 of the Civil Code and Section 1502 of the Health and Safety Code to create a statutory distinction between a "full service adoption agency" and a "noncustodial adoption agency". The operations of the noncustodial adoption agency are limited to assessing prospective adoptive parents; cooperatively matching children who are under the care, custody and control of a licensed full service adoption agency with assessed and approved adoptive applicants, and cooperatively supervising adoptive placements with a licensed, full service adoption agency. The full service adoption agency assumes care, custody and control of a child via the relinquishment of the child for adoption or involuntary termination of parental rights; assesses birthparents, prospective adoptive parents and children; places children for adoption; and supervises adoptive placements.

No new regulations for the Adoptions Program will be required as a result of this legislation. However, new Community Care Licensing regulations will be necessary in order for the Department to license noncustodial agencies.

**SB 1716 (Royce), Chapter 1161, Statutes of 1988**

This legislation adds Section 14027 to the Welfare and Institutions Code to 1) authorize the State Department of Health Services to designate participating county health service agencies as health care service providers of home nursing services; 2) define the term "designated provider of home nursing services"; 3) require counties designated as health care providers of home nursing services to act as fiscal intermediaries for the provision of these services, including the responsibility of passing through all Medi-Cal reimbursements received for these services to the licensed providers; and 4) require that the Medi-Cal reimbursement rate applicable to the nursing services be the current Medi-Cal rate applicable to those services.

For adoption program purposes, the significance of this legislation is that it clarifies that the Medi-Cal Program rather than the Adoption Assistance Program (AAP) is responsible for the payment of home nursing services. This act further underscores

the fact that the Medi-Cal Program exclusively establishes health care policy and medical service benefit levels for recipients of AAP, whereas AAP policy and benefits address only social services.

This legislation does not require new SDSS regulations.

**SB 1860 (Presley), Chapter 1075, Statutes of 1988**

This legislation "cleans up" some of the provisions of SB 243, Chapter 1485, Statutes of 1987. Specifically, provisions that affected adoptions planning were amended to add an option, if certain criteria are met, for the court to order long-term foster care for the child at the hearing held 12 months after the initial dispositional hearing; revise the contents of the assessment of the prospective adoptive parent; include minors 7 years or older within the definition of "difficult to place"; require public adoption agencies seeking adoptive parents for a child to contact other public and private adoption agencies regarding the child during their 60-day search for an adoptive placement; and in specified circumstances, add the alternative of adoption as a permanent placement goal without terminating parental rights.

This legislation does not require new Departmental regulations.

Copies of the above-described chaptered bills may be obtained from the California Legislative Bill Room, State Capitol Building, Room 332, Sacramento, California 95814. If you have questions regarding the topics addressed in these statutes as they relate to the delivery of the adoptions program, please contact Mr. Ritch Hemstreet, Chief, Adoptions Policy Bureau at (916) 322-4228 or ATSS 492-4228.

  
LOREN D. SUTER  
Deputy Director

cc: CWDA